IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.3.2006

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THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.22777 of 2002

P.Baskeran .. Petitioner

vs.

1. The Chief Engineer,
   (Distribution) Chennai Division,
   Tamil Nadu Electricity Board,
   No.800, Anna Salai,
   Chennai - 2.

2. The Superintending Engineer,
   Chennai Electricity Distribution,
   Circle/North Tamilnadu Electricity Board,
   Chennai - 2.

3. The Executive Engineer,
   (O & M) Tamil Nadu Electricity Board,
   Perambur, Chennai -11.

4. The Assistant Executive Engineer (O & M),
   Chennai Electricity Distribution Circle/North,
   Tamilnadu Electricity Board,
   Vasarpadi, Chennai - 37. .. Respondents

This Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari directing the respondents to call for all connected relevant records relating to the impugned order issued in proceedings in Ku.No.Ma.Po/Sa.Me.Pa.Va/North/Ni.Pi.2/OU Tha.4/No.308/02 dated 29.5.2002 passed by the Superintending Engineer, Chennai Electricity Distribution Circle/North, Tamilnadu Electricity Board, Chennai -2, the second respondent herein, and quash the same as arbitrary, unreasonable, improper, illegal, against the established rules and regulations of the respondents and in violation of the Fundamental Rights Guaranteed under the Constitution of India.

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For petitioner : Mr.S.Srinivasan
For respondents : Mr.G.Ananda Kumar
for Mr.V.Radhakrishnan

O R D E R

This writ petition has been filed by the petitioner for the issuance of a writ of Certiorari directing the respondents to call for all connected relevant records relating to the impugned order issued in proceedings in Ku.No.Ma.Po/Sa.Me.Pa.Va/North/Ni.Pi.2/OU Tha.4/No.308/02, dated 29.5.2002, passed by the Superintending Engineer, Chennai Electricity Distribution Circle/North, Tamilnadu Electricity Board, Chennai -2, the second respondent herein, and quash the same as arbitrary, unreasonable, improper, illegal, against the established rules and regulations of the respondents and in violation of the Fundamental Rights guaranteed under the Constitution of India.

2. It is the case of the petitioner that the petitioner had joined the Tamil Nadu Electricity Board as a Casual Labourer in the year 1985 and he had worked in various sections as well as the Department in several divisions and he was carrying on his duty sincerely and without any lapses. Based on the recommendation of the Justice V.Khalid Commission, dated 11.2.1991, the petitioner was also eligible for absorption on regular basis. The petitioner was waiting for interview from the respondent Electricity Board and since he did not receive the call, he had informed the labour union about the same and it was intimated that he was in the list, in the name of Karuna which was his nick name. Thereafter, he had appeared for the interview and joined the respondent board as Helper on 4.7.1995. While functioning as a Helper, his father's health had deteriorated and therefore, he had resigned the said post on 31.12.1996. However, he re-joined the respondent board as a Casual Labourer and worked as such from 1996 for a period of one year. While working as a Casual Labourer, he had received a provisional selection order for the post of Helper, as per the recommendation of the Justice V.Khalid Commission and as per the proceedings of the second respondent in Memo No.015300/995/Adm.11/N/A1/97-3, dated 11.7.1997. He joined the post of Helper as per his joining report, dated 16.7.1997. While so, a charge memo was issued to him stating that he had worked earlier under that board in the name of C.Karunakaran. He had submitted a detailed explanation denying that he was in no way connected with the alleged offence of impersonation. On 13.10.1999, he had received an enquiry notice issued by the second respondent and by his proceedings, dated 21.12.1999, the second respondent had issued a memo calling for explanation, for which he had submitted an explanation. Again, by the proceedings of the second

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respondent, dated 22.12.2000, a charge memo was issued asking him to submit his explanation. Even though the petitioner had submitted his explanation, an enquiry notice was issued by the Executive Engineer O & M, Tamilnadu Electricity Board, Chennai, who is the enquiry officer, as per the proceedings, dated 12.12.2001. The petitioner had submitted his representation, dated 14.12.2001, to the Enquiry officer, the third respondent herein, requesting him to permit one Mr.Kuppusamy to assist during the oral enquiry. However, without considering the request of the petitioner, the third respondent had come to the conclusion that the charges against the petitioner were proved. Based on which, the second respondent issued a show cause notice to the petitioner proposing the punishment of removal from service, by the impugned proceedings in Ku.No.Ma.Po/Sa.Me.Pa.Va/North/Ni.Pi.2/Ou.Tha.4/No.308/2002, dated 29.5.2002. The petitioner had made a representation to the second respondent on 7.6.2002, stating that many of his submissions have not been taken into consideration by the enquiry officer and requested for more time for submitting the explanation. The petitioner has filed the present writ petition challenging the order, dated 29.5.2002, issued by the second respondent.

3. A counter-affidavit has been filed on behalf of the respondents, in which it is stated that the petitioner, who was a contract labourer and while taking employment from the respondent board he had given his name as C.Karunakaran, thereby impersonating as Karuna appeared before the selection committee and after being selected, he was appointed in the post of Helper and he had joined duty in the Office of the Superintending Engineer/Chennai Electricity Distribution Circle/West/Chennai on 4.7.1995. The petitioner had not only impersonated himself as Karunakaran but also produced forged documents knowing fully well that his name is not Karunakaran, thereby committed grave misconduct and he had worked as such from 4.7.1995 fully till 31.12.1996 and received the salary and other attendant benefits. On 31.12.1996, he had resigned from the post on coming to know that the actual person by name Karunakaran had made a complaint to the respondent board. On enquiry by the Vigilance, it was found that the petitioner had committed serious misconduct of impersonation and falsification of attendance. After conducting a full-fledged enquiry, the petitioner was found guilty of the charge of committing the offence of impersonation and a show cause notice, dated 29.5.2002, was issued by the second respondent asking the petitioner as to why he should not be removed from the service. Against the said show cause notice, the petitioner had filed the present writ petition.

4. On a perusal of the documents filed before this Court and on hearing the arguments of the learned counsel for the petitioner as well as the respondents, this Court is of the view that there is no merit in the

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writ petition since the writ petition has been filed challenging the show cause notice, dated 29.5.2002, issued by the second respondent. It is well settled that a writ petition cannot be maintained against a show cause notice except in exceptional circumstances. Further, the offence of impersonation committed by the petitioner is of a serious nature and the petitioner does not deserve any leniency with regard to the punishment. Therefore, the writ petition is dismissed. However, the petitioner is given liberty to submit his explanation to the show cause notice, dated 29.5.2002, within a period of four weeks from the date of receipt of a copy of this order. No costs.

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Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

To

1. The Chief Engineer
   (Distribution) Chennai Division
   Tamil Nadu Electricity Board
   No.800, Anna Salai
   Chennai - 2

2. The Superintending Engineer
   Chennai Electricity Distribution
   Circle/North Tamilnadu Electricity Board
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   Perambur, Chennai -11

4. The Assistant Executive Engineer (O & M)
   Chennai Electricity Distribution Circle/North
   Tamilnadu Electricity Board
   Vasarpadi, Chennai - 37

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+ 1 CC To Mr.S.Srinivasan, Advocate, SR NO.14015.
+ 1 CC To Mr.V.Radhakrishnan, Advocate, SR NO.14177.

W.P.No.No.22777 of 2002

AVA(CO)
RVL 12.04.2006

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